

§ 1026.18

12 CFR Ch. X (1–1–12 Edition)

due date of the first payment for the current sale, if the following two conditions are met:

(1) The consumer has approved in writing the annual percentage rate or rates, the range of balances to which they apply, and the method of treating any unearned finance charge on an existing balance.

(2) The creditor retains no security interest in any property after the creditor has received payments equal to the cash price and any finance charge attributable to the sale of that property. For purposes of this provision, in the case of items purchased on different dates, the first purchased is deemed the first item paid for; in the case of items purchased on the same date, the lowest priced is deemed the first item paid for.

(i) *Interim student credit extensions.* For transactions involving an interim credit extension under a student credit program for which an application is received prior to the mandatory compliance date of §§1026.46, 47, and 48, the creditor need not make the following disclosures: the finance charge under §1026.18(d), the payment schedule under §1026.18(g), the total of payments under §1026.18(h), or the total sale price under §1026.18(j) at the time the credit is actually extended. The creditor must make complete disclosures at the time the creditor and consumer agree upon the repayment schedule for the total obligation. At that time, a new set of disclosures must be made of all applicable items under §1026.18.

§ 1026.18 Content of disclosures.

For each transaction, the creditor shall disclose the following information as applicable:

(a) *Creditor.* The identity of the creditor making the disclosures.

(b) *Amount financed.* The *amount financed*, using that term, and a brief description such as *the amount of credit provided to you or on your behalf*. The amount financed is calculated by:

(1) Determining the principal loan amount or the cash price (subtracting any downpayment);

(2) Adding any other amounts that are financed by the creditor and are not part of the finance charge; and

(3) Subtracting any prepaid finance charge.

(c) *Itemization of amount financed.* (1) Except as provided in paragraphs (c)(2) and (c)(3) of this section, a separate written itemization of the amount financed, including:

(i) The amount of any proceeds distributed directly to the consumer.

(ii) The amount credited to the consumer's account with the creditor.

(iii) Any amounts paid to other persons by the creditor on the consumer's behalf. The creditor shall identify those persons. The following payees may be described using generic or other general terms and need not be further identified: public officials or government agencies, credit reporting agencies, appraisers, and insurance companies.

(iv) The prepaid finance charge.

(2) The creditor need not comply with paragraph (c)(1) of this section if the creditor provides a statement that the consumer has the right to receive a written itemization of the amount financed, together with a space for the consumer to indicate whether it is desired, and the consumer does not request it.

(3) Good faith estimates of settlement costs provided for transactions subject to the Real Estate Settlement Procedures Act (12 U.S.C. 2601 *et seq.*) may be substituted for the disclosures required by paragraph (c)(1) of this section.

(d) *Finance charge.* The *finance charge*, using that term, and a brief description such as “the dollar amount the credit will cost you.”

(1) *Mortgage loans.* In a transaction secured by real property or a dwelling, the disclosed finance charge and other disclosures affected by the disclosed finance charge (including the amount financed and the annual percentage rate) shall be treated as accurate if the amount disclosed as the finance charge:

(i) Is understated by no more than \$100; or

(ii) Is greater than the amount required to be disclosed.

(2) *Other credit.* In any other transaction, the amount disclosed as the finance charge shall be treated as accurate if, in a transaction involving an amount financed of \$1,000 or less, it is not more than \$5 above or below the

amount required to be disclosed; or, in a transaction involving an amount financed of more than \$1,000, it is not more than \$10 above or below the amount required to be disclosed.

(e) *Annual percentage rate.* The *annual percentage rate*, using that term, and a brief description such as “the cost of your credit as a yearly rate.” For any transaction involving a finance charge of \$5 or less on an amount financed of \$75 or less, or a finance charge of \$7.50 or less on an amount financed of more than \$75, the creditor need not disclose the annual percentage rate.

(f) *Variable rate.* (1) Except as provided in paragraph (f)(3) of this section, if the annual percentage rate may increase after consummation in a transaction not secured by the consumer’s principal dwelling or in a transaction secured by the consumer’s principal dwelling with a term of one year or less, the following disclosures:

(i) The circumstances under which the rate may increase.

(ii) Any limitations on the increase.

(iii) The effect of an increase.

(iv) An example of the payment terms that would result from an increase.

(2) If the annual percentage rate may increase after consummation in a transaction secured by the consumer’s principal dwelling with a term greater than one year, the following disclosures:

(i) The fact that the transaction contains a variable-rate feature.

(ii) A statement that variable-rate disclosures have been provided earlier.

(3) Information provided in accordance with §§1026.18(f)(2) and 1026.19(b) may be substituted for the disclosures required by paragraph (f)(1) of this section.

(g) *Payment schedule.* Other than for a transaction that is subject to paragraph (s) of this section, the number, amounts, and timing of payments scheduled to repay the obligation.

(1) In a demand obligation with no alternate maturity date, the creditor may comply with this paragraph by disclosing the due dates or payment periods of any scheduled interest payments for the first year.

(2) In a transaction in which a series of payments varies because a finance

charge is applied to the unpaid principal balance, the creditor may comply with this paragraph by disclosing the following information:

(i) The dollar amounts of the largest and smallest payments in the series.

(ii) A reference to the variations in the other payments in the series.

(h) *Total of payments.* The *total of payments*, using that term, and a descriptive explanation such as “the amount you will have paid when you have made all scheduled payments.” In any transaction involving a single payment, the creditor need not disclose the total of payments.

(i) *Demand feature.* If the obligation has a demand feature, that fact shall be disclosed. When the disclosures are based on an assumed maturity of 1 year as provided in §1026.17(c)(5), that fact shall also be disclosed.

(j) *Total sale price.* In a credit sale, the *total sale price*, using that term, and a descriptive explanation (including the amount of any downpayment) such as “the total price of your purchase on credit, including your downpayment of \$_____.” The total sale price is the sum of the cash price, the items described in paragraph (b)(2), and the finance charge disclosed under paragraph (d) of this section.

(k) *Prepayment.* (1) When an obligation includes a finance charge computed from time to time by application of a rate to the unpaid principal balance, a statement indicating whether or not a penalty may be imposed if the obligation is prepaid in full.

(2) When an obligation includes a finance charge other than the finance charge described in paragraph (k)(1) of this section, a statement indicating whether or not the consumer is entitled to a rebate of any finance charge if the obligation is prepaid in full.

(l) *Late payment.* Any dollar or percentage charge that may be imposed before maturity due to a late payment, other than a deferral or extension charge.

(m) *Security interest.* The fact that the creditor has or will acquire a security interest in the property purchased as part of the transaction, or in other property identified by item or type.

(n) *Insurance and debt cancellation.* The items required by §1026.4(d) in

order to exclude certain insurance premiums and debt cancellation fees from the finance charge.

(o) *Certain security interest charges.* The disclosures required by §1026.4(e) in order to exclude from the finance charge certain fees prescribed by law or certain premiums for insurance in lieu of perfecting a security interest.

(p) *Contract reference.* A statement that the consumer should refer to the appropriate contract document for information about nonpayment, default, the right to accelerate the maturity of the obligation, and prepayment rebates and penalties. At the creditor's option, the statement may also include a reference to the contract for further information about security interests and, in a residential mortgage transaction, about the creditor's policy regarding assumption of the obligation.

(q) *Assumption policy.* In a residential mortgage transaction, a statement whether or not a subsequent purchaser of the dwelling from the consumer may be permitted to assume the remaining obligation on its original terms.

(r) *Required deposit.* If the creditor requires the consumer to maintain a deposit as a condition of the specific transaction, a statement that the annual percentage rate does not reflect the effect of the required deposit. A required deposit need not include, for example:

- (1) An escrow account for items such as taxes, insurance or repairs;
- (2) A deposit that earns not less than 5 percent per year; or
- (3) Payments under a Morris Plan.

(s) *Interest rate and payment summary for mortgage transactions.* For a closed-end transaction secured by real property or a dwelling, other than a transaction secured by a consumer's interest in a timeshare plan described in 11 U.S.C. 101(53D), the creditor shall disclose the following information about the interest rate and payments:

(1) *Form of disclosures.* The information in paragraphs (s)(2)–(4) of this section shall be in the form of a table, with no more than five columns, with headings and format substantially similar to Model Clause H-4(E), H-4(F), H-4(G), or H-4(H) in Appendix H to this part. The table shall contain only the information required in paragraphs

(s)(2)–(4) of this section, shall be placed in a prominent location, and shall be in a minimum 10-point font.

(2) *Interest rates—(i) Amortizing loans.* (A) For a fixed-rate mortgage, the interest rate at consummation.

(B) For an adjustable-rate or step-rate mortgage:

(1) The interest rate at consummation and the period of time until the first interest rate adjustment may occur, labeled as the “introductory rate and monthly payment”;

(2) The maximum interest rate that may apply during the first five years after the date on which the first regular periodic payment will be due and the earliest date on which that rate may apply, labeled as “maximum during first five years”; and

(3) The maximum interest rate that may apply during the life of the loan and the earliest date on which that rate may apply, labeled as “maximum ever.”

(C) If the loan provides for payment increases as described in paragraph (s)(3)(i)(B) of this section, the interest rate in effect at the time the first such payment increase is scheduled to occur and the date on which the increase will occur, labeled as “first adjustment” if the loan is an adjustable-rate mortgage or, otherwise, labeled as “first increase.”

(ii) *Negative amortization loans.* For a negative amortization loan:

(A) The interest rate at consummation and, if it will adjust after consummation, the length of time until it will adjust, and the label “introductory” or “intro”;

(B) The maximum interest rate that could apply when the consumer must begin making fully amortizing payments under the terms of the legal obligation;

(C) If the minimum required payment will increase before the consumer must begin making fully amortizing payments, the maximum interest rate that could apply at the time of the first payment increase and the date the increase is scheduled to occur; and

(D) If a second increase in the minimum required payment may occur before the consumer must begin making fully amortizing payments, the maximum interest rate that could apply at

the time of the second payment increase and the date the increase is scheduled to occur.

(iii) *Introductory rate disclosure for amortizing adjustable-rate mortgages.* For an amortizing adjustable-rate mortgage, if the interest rate at consummation is less than the fully-indexed rate, placed in a box directly beneath the table required by paragraph (s)(1) of this section, in a format substantially similar to Model Clause H-4(I) in appendix H to this part:

(A) The interest rate that applies at consummation and the period of time for which it applies;

(B) A statement that, even if market rates do not change, the interest rate will increase at the first adjustment and a designation of the place in sequence of the month or year, as applicable, of such rate adjustment; and

(C) The fully-indexed rate.

(3) *Payments for amortizing loans—(i) Principal and interest payments.* If all periodic payments will be applied to accrued interest and principal, for each interest rate disclosed under paragraph (s)(2)(i) of this section:

(A) The corresponding periodic principal and interest payment, labeled as “principal and interest;”

(B) If the periodic payment may increase without regard to an interest rate adjustment, the payment that corresponds to the first such increase and the earliest date on which the increase could occur;

(C) If an escrow account will be established, an estimate of the amount of taxes and insurance, including any mortgage insurance, payable with each periodic payment; and

(D) The sum of the amounts disclosed under paragraphs (s)(3)(i)(A) and (C) of this section or (s)(3)(i)(B) and (C) of this section, as applicable, labeled as “total estimated monthly payment.”

(ii) *Interest-only payments.* If the loan is an interest-only loan, for each interest rate disclosed under paragraph (s)(2)(i) of this section, the corresponding periodic payment and:

(A) If the payment will be applied to only accrued interest, the amount applied to interest, labeled as “interest payment,” and a statement that none of the payment is being applied to principal;

(B) If the payment will be applied to accrued interest and principal, an itemization of the amount of the first such payment applied to accrued interest and to principal, labeled as “interest payment” and “principal payment,” respectively;

(C) The escrow information described in paragraph (s)(3)(i)(C) of this section; and

(D) The sum of all amounts required to be disclosed under paragraphs (s)(3)(ii)(A) and (C) of this section or (s)(3)(ii)(B) and (C) of this section, as applicable, labeled as “total estimated monthly payment.”

(4) *Payments for negative amortization loans.* For negative amortization loans:

(i)(A) The minimum periodic payment required until the first payment increase or interest rate increase, corresponding to the interest rate disclosed under paragraph (s)(2)(ii)(A) of this section;

(B) The minimum periodic payment that would be due at the first payment increase and the second, if any, corresponding to the interest rates described in paragraphs (s)(2)(ii)(C) and (D) of this section; and

(C) A statement that the minimum payment pays only some interest, does not repay any principal, and will cause the loan amount to increase;

(ii) The fully amortizing periodic payment amount at the earliest time when such a payment must be made, corresponding to the interest rate disclosed under paragraph (s)(2)(ii)(B) of this section; and

(iii) If applicable, in addition to the payments in paragraphs (s)(4)(i) and (ii) of this section, for each interest rate disclosed under paragraph (s)(2)(ii) of this section, the amount of the fully amortizing periodic payment, labeled as the “full payment option,” and a statement that these payments pay all principal and all accrued interest.

(5) *Balloon payments.* (i) Except as provided in paragraph (s)(5)(ii) of this section, if the transaction will require a balloon payment, defined as a payment that is more than two times a regular periodic payment, the balloon payment shall be disclosed separately from other periodic payments disclosed in the table under this paragraph (s),

outside the table and in a manner substantially similar to Model Clause H-4(J) in appendix H to this part.

(ii) If the balloon payment is scheduled to occur at the same time as another payment required to be disclosed in the table pursuant to paragraph (s)(3) or (s)(4) of this section, then the balloon payment must be disclosed in the table.

(6) *Special disclosures for loans with negative amortization.* For a negative amortization loan, the following information, in close proximity to the table required in paragraph (s)(1) of this section, with headings, content, and format substantially similar to Model Clause H-4(G) in appendix H to this part:

(i) The maximum interest rate, the shortest period of time in which such interest rate could be reached, the amount of estimated taxes and insurance included in each payment disclosed, and a statement that the loan offers payment options, two of which are shown.

(ii) The dollar amount of the increase in the loan's principal balance if the consumer makes only the minimum required payments for the maximum possible time and the earliest date on which the consumer must begin making fully amortizing payments, assuming that the maximum interest rate is reached at the earliest possible time.

(7) *Definitions.* For purposes of this § 1026.18(s):

(i) The term “adjustable-rate mortgage” means a transaction secured by real property or a dwelling for which the annual percentage rate may increase after consummation.

(ii) The term “step-rate mortgage” means a transaction secured by real property or a dwelling for which the interest rate will change after consummation, and the rates that will apply and the periods for which they will apply are known at consummation.

(iii) The term “fixed-rate mortgage” means a transaction secured by real property or a dwelling that is not an adjustable-rate mortgage or a step-rate mortgage.

(iv) The term “interest-only” means that, under the terms of the legal obligation, one or more of the periodic pay-

ments may be applied solely to accrued interest and not to loan principal; an “interest-only loan” is a loan that permits interest-only payments.

(v) The term “amortizing loan” means a loan in which payment of the periodic payments does not result in an increase in the principal balance under the terms of the legal obligation; the term “negative amortization” means payment of periodic payments that will result in an increase in the principal balance under the terms of the legal obligation; the term “negative amortization loan” means a loan, other than a reverse mortgage subject to § 1026.33, that provides for a minimum periodic payment that covers only a portion of the accrued interest, resulting in negative amortization.

(vi) The term “fully-indexed rate” means the interest rate calculated using the index value and margin at the time of consummation.

(t) “*No-guarantee-to-refinance*” *statement*—(1) *Disclosure.* For a closed-end transaction secured by real property or a dwelling, other than a transaction secured by a consumer's interest in a timeshare plan described in 11 U.S.C. 101(53D), the creditor shall disclose a statement that there is no guarantee the consumer can refinance the transaction to lower the interest rate or periodic payments.

(2) *Format.* The statement required by paragraph (t)(1) of this section must be in a form substantially similar to Model Clause H-4(K) in Appendix H to this part.

§ 1026.19 Certain mortgage and variable-rate transactions.

(a) *Mortgage transactions subject to RESPA*—(1)(i) *Time of disclosures.* In a mortgage transaction subject to the Real Estate Settlement Procedures Act (12 U.S.C. 2601 *et seq.*) that is secured by the consumer's dwelling, other than a home equity line of credit subject to § 1026.40 or mortgage transaction subject to paragraph (a)(5) of this section, the creditor shall make good faith estimates of the disclosures required by § 1026.18 and shall deliver or place them in the mail not later than the third business day after the creditor receives the consumer's written application.